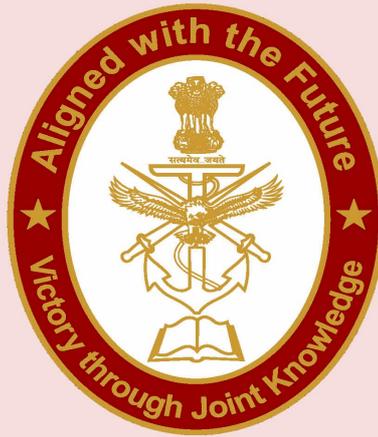


CENTRE FOR JOINT WARFARE STUDIES



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ARTICLE 35A INDICATES THE FAULT LINES WITHIN THE STATE

BY

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The debate on Article 35 A continues. The Supreme Court would now hear the case in the last week of this month to determine whether it deserves to be referred to a constitutional bench. Legal issues aside, the re-emergence of the debate has brought to fore the fault lines which exist in the state. The case, when it last came for argument in the Supreme Court was adjourned on government request based on demands of its coalition partner, the PDP.

It had given the excuse that an interlocutor had been announced and he should be permitted to obtain views for a lasting solution. The reason being projected this time is forthcoming Panchayat elections, the process for conduct of which has commenced. The government on its part is seeking to delay decisions of the courts, possibly to prevent violence from escalating in the valley.

While the legal aspects of article 35 A would be decided by the courts, there are political and human angles too which play a major role. In the present context, all political parties and separatists from the valley have been preaching the same text to the local populace over the years. It has been oft repeated thus impacting local mindsets.

The fake text being conveyed projects that removal of the article would imply an influx of individuals from the plains changing demography of

the valley. No valley based political leader has made this comment in any rally outside the confines of the valley. Leaders in the valley have threatened increased levels of violence if the article is removed.

Thus, evidently, whether it be the PDP or the NC, their concern is only the valley, not the state. Hence, arises the question, does J and K still deserve to be one state or two states with one Union Territory. The intention of stoking fires within the valley is also to retain their political base.

In the present context existing rules permit residents of the state to purchase land anywhere within the state. Therefore, residents of Jammu or Ladakh are officially permitted to buy land in the valley. Over the years, the migration of population has been in the reverse. Hundreds are moving out of the valley into safer pastures of Jammu, changing demography in the plains, which as per state laws is legal.

They are establishing colonies on the outskirts of the city. There have been no reports of a reverse migration in any way. Hence, claims of valley based political parties on change of demography is false. With the forced migration of Kashmiri Pundits there would now be no takers for the valley, despite all its tall claims.

The plains of J and K, as the entry point to the valley and Ladakh, are an ideal location for its development as an industrial hub for the requirements of the hill region and to exploit raw materials from the rest of the state. Article 35 A has prevented investment by business houses and hence the entire state lacks development. This has never been projected by any political party within the state.

J and K comprises of three major sub divisions, Jammu, Kashmir and Ladakh. Each is unique, whether it be terrain, population identity or political support. The recent rape and murder of an adolescent in Kathua indicated fault lines within the state. It was an expression of anger and frustration within the Jammu region of attempts at changing demography.

It is an established fact that article 35 A impacts the state and not just the valley. If it was regressive, as has been projected by valley political parties and separatists then there should have been similar lockdowns, across the entire state. There has not been any call for a shutdown anywhere else other than the valley. Multiple organizations in the Jammu region have been campaigning for its removal. It therefore clearly emerges that there is a difference in perception across the entire state and hence the government must act in accordance with the wishes of the majority.

Population wise, the Jammu region has a larger population than the valley. Land area wise, the Ladakh region is much larger. The protest called

for in the valley was only effective in five districts if the valley. Hence, with the state under governor's rule, there are two actions which the centre must take prior to determining its stance.

The first is the holding of a referendum within the state on whether this article should be retained or abolished. If majority are for its abolition, then the centre and the state have a legal justification to proceed further, ignoring the demands of the minority. The state cannot be held to ransom by a small region.

The very announcement of a referendum would create panic within the valley and bring forth the reality that it stands alone and considers itself distinct from the rest of the state. It would clearly indicate that the opinion of the separatists and valley based political parties is not in tune with the rest of the state but biased and against the interests of the majority.

The second action which would flow from the results of the referendum is considering dividing the state into three parts, meeting the aspirations of its population, not of the valley alone. However, this does have a negative fallout as converting the valley into a separate identity dominated by one religion could open doors to increased violence, apart from demands of merger with Pak solely on religious grounds.

Legally, there may be constitutional issues in considering the removal of article 35 A, however realistically if majority of population has a single view, then since the government is responsible to the majority, its removal should be supported by the centre. Hence, it becomes mandatory for the government to hold a referendum to obtain views from across the state, rather than be cowed down by threat of violence from a region of the state. Doing so, it is projecting that it is concerned only of the valley and not of the rest of the state.

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